

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

RITA CROWDER,)	
)	
Plaintiff,)	
)	
v.)	NO. 3:12-1138
)	Judge Sharp/Bryant
G.UB.MK CONSTRUCTORS, et al.,)	
)	
Defendants.)	

TO: The Honorable Kevin H. Sharp

REPORT AND RECOMMENDATION

In this action alleging employment discrimination under Title VII, three nonparties have filed their virtually identical motions to quash summons and service of summons and/or motion to dismiss (Docket Entry Nos. 15, 17 and 19). Plaintiff has filed a response (Docket Entry No. 25) and the three nonparty movants have filed replies (Docket Entry Nos. 27, 28 and 29).

For the reasons stated below, the undersigned Magistrate Judge RECOMMENDS that these motions to dismiss be GRANTED.

Statement of the Case

Plaintiff Crowder in her complaint alleges that she was employed as a laborer by G.UB.MK Constructors, allegedly a joint venture of three companies, WorleyParsons Group, Inc., Williams Plant Services and URS Corporation's Washington Division. The joint venture is the only named defendant.

When the complaint was filed, plaintiff sought the issuance of three summons, each addressed to one of the three nonparty movants (Docket Entry No. 1-2 at 1-3).

Each nonparty movant seeks dismissal of this action insofar as it seeks to name the individual joint venturers as defendants. As grounds, the movants assert that they are not listed as defendants in the caption or in the body of the complaint as defendants, and, therefore, are entitled to dismissal.

In her response, plaintiff asserts that the three movants have been identified as joint venturers in G.UB.MK Constructors, an unincorporated joint venture that allegedly was plaintiff's employer. Plaintiff states that the three moving parties have not been sued in this matter as named defendants, but, rather, have been served as members of an unincorporated joint venture as a means of obtaining service of process upon the joint venture, as provided in the federal and Tennessee rules of civil procedure.

Give this admission by plaintiff, the undersigned Magistrate Judge finds that the motions to dismiss by the nonparty movants should be GRANTED and they should be DISMISSED as defendants from this action. The undersigned expressly declines to express any finding in this report and recommendation regarding the sufficiency of service of process on defendant G.UB.MK Constructors.

RECOMMENDATION

For the reasons stated above, the undersigned Magistrate Judge RECOMMENDS that the motions to dismiss filed on behalf of WorleyParsons Group, Inc., Williams Plant Services, LLC, and URS Energy & Construction, Inc. be GRANTED and that they be DISMISSED as defendants in this action.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days from service of this Report and Recommendation in which to file any written objections to this Recommendation, with the District Court. Any party opposing said objections shall have fourteen (14) days from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within fourteen (14) days of receipt of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986).

ENTERED this 2nd day of January 2013.

s/ John S. Bryant
JOHN S. BRYANT
United States Magistrate Judge